



City of Anaheim

OFFICE OF THE CITY ATTORNEY

January 28, 2019

Ms. Annie Banks
Justice Team Network
1201 Martin Luther King Jr. Way, Ste. 200
Oakland, CA 94608

Re: Public Records Act Request (Gov. Code § 6250, et seq.)
Request No. 01022019 APD2

Dear Ms. Banks:

The City of Anaheim ("City") received your Public Records Act request on January 2, 2019. Therein you seek "a copy of all records relating to the report, investigation, findings and administrative discipline related to the December 11, 2009 shooting of Caesar Ray Cruz."

Some of the records you seek are audio or video files. Such records require multiple layers of review and "extraction" to protect information exempt from disclosure pursuant to the Public Records Act and prepare for production the otherwise disclosable recording. The City is allowed to recover costs for its expenditures to produce the recordings, including the cost of extracting exempt material from the recordings with the aid of software. *See National Lawyers Guild v. City of Hayward*, 27 Cal.App.5th 937, 952; Government Code section 6253.9(b)(2). Should you wish to receive the audio/video files, the City will require a deposit to proceed with the extraction and production of the relevant files. In this instance, the City has estimated that it will require approximately 37.5 hours to prepare the responsive audio/video files at the cost of \$80/hour. Please provide a deposit in the amount of \$3,000.00 if you are interested in obtaining these records. Please also note that this amount is an estimate only. If actual extraction costs are less than the estimate, the City will refund the appropriate portion of your deposit. If actual extraction costs exceed the estimate, the City will request a supplemental payment before the requested records are released.

Please note that the records containing the information you seek may be redacted and/or have information extracted from them pursuant to the following exemptions to the Public Records Act:

- The records contain personal contact information (Gov. Code, §§ 6254(f)(2) and 6255(a); Penal Code § 832.7(b)(5)(A)(B));
- The records may be subject to the public interest exemption provided by Gov. Code § 6255;
- Medical records are exempt from disclosure pursuant to Government Code § 6254(k), which incorporates the prohibitions against the disclosure of such information contained in the Confidentiality of Medical Information Act [Civil Code § 56 et seq.] and Health Insurance Portability and Accountability Act (HIPAA);
- Financial information is confidential (Gov. Code §§ 6254(n), 7470, 7471 and 7473);
- Juvenile information is confidential (W&I Code §§ 827 and 828); and
- The identity of person who furnish information concerning violations of law to law enforcement personnel is exempt from disclosure. *Roviaro v. United States*, 352 U.S. 53 at p. 61 (1957); *Chao v. Westside Drywall, Inc.*, 254 F.R.D. 651, 655-56 (2009).

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Finally, your request specifically seeks records under SB 1421. Numerous police associations have challenged the application of SB 1421 to incidents occurring prior to its effective date of January 1, 2019, and multiple orders have been issued by the courts preventing the disclosure of such records pending a hearing on the matter. The City anticipates these challenges to be resolved in the near future and prior to the production of the records that you seek.

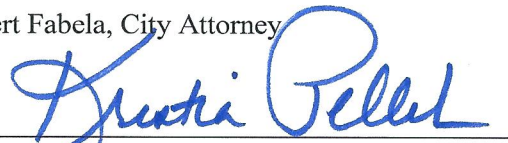
Without waiving, and subject to, the foregoing exemptions, the City is in the process of compiling and redacting a large set of responsive records, which will be made available to you for inspection, payment and production. You may contact Assistant City Attorney Moses W. Johnson to make the appropriate arrangements. If such arrangements are not made within 20 days from the date of this letter, you may be required to submit a new request. Please note that due to the voluminous nature of your request and other similar requests received concurrently with yours, the City continues to diligently identify, compile and redact responsive records. As further records become available, you will be promptly notified so that you can obtain additional materials.

Should you have any questions, please contact the undersigned.

Sincerely,

Robert Fabela, City Attorney

By:



Kristin A. Pelletier
Senior Assistant City Attorney

cc: Lt. Allan Roman, APD
Nicole Van Train, APD

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